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Comment C-4. Page C-14. C.3.2.3. Reason for Alternative Consideration.

14-30

Surprisingly, this section does not address the Existing Pipeline ROW in Segment 1, where the 14-inch pipe currently traverses industrial and developed land, avoids sensitive wetland habitat, is already in alignment with other hazardous liquid pipelines, and is already connected to the crossing at Carquinez Strait.

COMMENTS TO SECTION D

Comment D-1. Page D.2-5. Subsection, Overall Effects of External Corrosion.

14-31

The Draft EIR does not appear to evaluate the impacts to the pipeline, both during construction and in the long-term, due to very low pH (ranging from 2 to 4) in groundwater and soil along the Proposed Project alignment in Segment 1.

Comment D-2. Page D.2-13. Section D.2. Pipeline Safety and Risk of Accidents. Table D.2-12. Anticipate Number of Pipeline Unintentional Releases Over 50-year Project Life. Comparison of Project Alternatives, Any One-Mile Segment of Line.

14-32

It appears from the Draft EIR that the Existing Pipeline ROW Alternative would not avoid the remediation and restoration site, and would not follow the proponent's current existing pipeline right of way from approximately the Shore Terminals property to the Carquinez Strait crossing. See e.g. Section D.9.1.3, Page D.9-11. Consequently, according to the Draft EIR, it appears that the number of unintentional releases for the Proposed Project is identical to that of the Existing Pipeline ROW Alternative in Segment 1. It appears that the Proposed Project and the Existing Pipeline ROW Alternative are identical in their alignments with regard to proximity to the Peyton Slough Remediation and Restoration Project area. The draft EIR does not consider an alternative that uses the project proponent's existing pipeline right of way. Such an alternative would appear to avoid impacts from releases presented by the Proposed Project (or the "*Existing Pipeline ROW Alternative*") for the Segment 1. This is because the actual existing pipeline right of way avoids the Peyton Slough Remediation and Restoration site, which is a sensitive wetland habitat.

Comment D-3. Page D.2-15. Section D.2.1.6. Environmental Setting: Proposed Project. Phase 1 Carquinez Strait Crossing. Third paragraph.

14-33

The third paragraph in this subsection, first sentence, states, *"To accommodate the use of the existing pipeline, at the northwest limit of the Rhodia facility, a permanent above ground pig launcher/receiver station is proposed."*

The property may actually be owned by CSLC at that location.

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Comment D-4. Page D.4-15. Section D.4.1.2. Environmental Setting: Proposed Project. Segment 1 (MP0-6.1) Contra Costa County and Carquinez Strait. Vegetation and Wetlands

14-34

This section does not appear to address the planned Peyton Slough Remediation and Restoration Project which will include over 20 acres of created or restored habitat and will enhance over 100 acres within the Phase 1 and Phase 2 portions of the Proposed Project. It appears that there may be some relationship between the proposed Phase 2 drilling operations in the tidal wetlands in the Peyton Slough Remediation and Restoration Project area and the location of the portion of proposed Segment 1 (and its alternative) between MP 3 and MP 5. Given the state of the technology, it does not appear necessary to follow Segment 1 of the Proposed Project and alternative alignments in such proximity to the remediation and restoration project. As an alternative alignment for this vicinity, the proponent should consider following a course in or adjacent to the project proponent's existing pipeline right of way – a course which would avoid proximity to the wetlands and related impacts. As stated above, Rhodia believes that the Draft EIR may improperly segment Phase 2 from Phase 1. In any event, if the Phase 2 CEQA study is premature at this time, as the project proponent suggests in the Draft EIR, then the location of the alignment for Phase 1 should not be affected by Phase 2. If Phase 2 is now at issue, then its impacts should be studied and included in this Draft EIR.

Comment D-5. Page D.4-15. Section D.4.1.2. Environmental Setting: Proposed Project. Segment 1 (MP0-6.1) Contra Costa County and Carquinez Strait. Wildlife and Aquatic Species. Third paragraph.

14-35

The third paragraph states:

> *"Phase 2 Carquinez Strait Crossing. The setting of Phase 2 is very similar to the Phase 1 setting. Assuming that stringing techniques for boring would be similar to those used today, the proposed future Phase 2 project would likely occur in developed areas of the Rhodia property, and extend into adjacent tidal and freshwater wetland habitats, including habitats that will be developed through Rhodia's currently planned restoration activities of Peyton Slough."*

This section provides habitat descriptions for most of the areas in the Proposed Project ROW, except the Peyton Marsh and Slough areas. The Peyton Slough Remediation and Restoration Project includes creation, enhancement, and restoration of primarily salt marsh harvest mouse, Clapper rail, Black rail, Delta smelt, and California splittail habitat.

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Comment D-6. Page D.4-32. Section D.4.3. Environmental Impacts and Mitigation Measures for the Proposed Project.

14-36

This section does not appear to address the Peyton Slough Remediation and Restoration Project in Segment 1. This is particularly important given the potential for immediate and long-term impacts caused by the Proposed Project (and described alternatives) in Segment 1 to both the effectiveness of the remediation and restoration project as well as to the sensitive wetland environment in which the project will be constructed. The Peyton Slough Remediation and Restoration Project is subject to authorization and permitting conditions, including mitigation conditions and restoration goals adopted for the restoration under CEQA, and mitigation conditions and goals required by permits issued by other agencies in connection with the project. The Proposed Project, the "*Existing Pipeline ROW Alternative*", and Phase 2, as described in the Draft EIR, appears to present significant new environmental impacts that must be evaluated and mitigated by the project proponent consistent with the mitigation conditions and restoration goals for the Peyton Slough Remediation and Restoration Project. This process should include consultation and oversight by the Peyton Slough Remediation and Restoration Project Technical Advisory Committee.

Comment D-7. Page D.4-16. Section D.4.1.2. Environmental Setting: Proposed Project. Segment 1 (MP0-6.1) Contra Costa County and Carquinez Strait. Wildlife and Aquatic Species. Marine Biology.

14-37

The second paragraph on page D.4-16 states, *"Peyton Slough is tidal and has been surveyed for marine biota."*

The Peyton Slough is tidal on the north side of the tide gate structure. Tidal flow has not occurred south of the tide gate (or upstream of the tide gate) for approximately 100 years.

Comment D-8. Page D.4-42. Subsection Impact BB-5. Temporary Impacts from Construction in Wetlands. Impact Discussion.

14-38

The last paragraph on Page D.4-42 states:

> *"Temporary impacts could be caused by interception and detention of ground-water or surface water within the excavated trench, thus reducing the hydrologic input to the adjacent wetland. Long-term hydrologic change to wetlands could result from trench backfill and topographic restoration activities. Backfill material and methods would affect wetland hydrology by altering surface and subsurface flow. For example, the pipeline backfill materials (such as gravel or coarse-textured non-native fill) could be more or less permeable than native materials. Surface alteration would impede or accelerate drainage. Compaction and settlement of backfill would create ditches along the pipeline. Excess backfill may*

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restrict surface or groundwater connections to wetlands. Impacts to the hydrologic function of wetlands would be considered potentially significant (Class II). Impacts to wetlands that are habitat for special status plant species would cause an impact to the species occupying those habitats. Such impacts may occur to species, such as Suisun marsh aster, Contra Costa goldfields, and hogwallow starfish. Impacts to these special status plant species and wetlands/riparian forests would be considered potentially significant (Class II). Implementation of Mitigation Measures BB-5a, BB-5b, and BB-5c (below) would reduce this impact to less than significant levels."

14-39

The impacts described above for the Proposed Project are not specifically addressed to the Peyton Slough Remediation and Restoration Project. A thorough analysis of such impacts in the vicinity of the Peyton Slough Remediation and Restoration Project Site must be conducted in detail to sufficiently determine whether such impacts are temporary in nature or long term, and whether such impacts are mitigable to less than significant levels by the proposed Mitigation Measures listed in the same section of the Draft EIR. (Please also refer to Comment D-9).

Comment D-9. Page D.4-44. Subsection Mitigation Measure for Impact BB-5. Construction in Wetlands Causes Vegetation Removal. Third bullet.

14-40

The third bullet on Page D.4-44 states, *"A minimum five-year monitoring program with detailed success criteria regarding species cover, species composition, species diversity, wetland area and depth as compared with pre-construction conditions documented prior to construction by a qualified biologist such that the function of the affected wetland and hydrology is restored, the methods and results of which shall be described in the Plan."*

The impacts of the proposed pipeline have not considered the mitigation monitoring requirements for the Peyton Slough Remediation and Restoration Project. That project will require 10 years of post-construction monitoring in order to ensure that the biological, hydrologic, and contaminant remediation objectives are met. Despite the fact that the Proposed Pipeline (and also the Existing Pipeline ROW Alternative) will traverse the same areas that are targeted for remediation, and therefore create additional impacts to the same sensitive wetlands, no monitoring requirements have been identified in this analysis. Additionally, appropriate creation and restoration of wetlands to compensate for cumulative and temporal impacts have not been considered for the Proposed Project. Mitigation for any pipeline project that runs adjacent to the Peyton Slough Remediation and Restoration Project Site must include appropriate mitigation and restoration requirements that are consistent with and coextensive to the remediation and restoration requirements for the Peyton Slough Remediation and Restoration Project. In addition, the prospect of Phase 2 raises additional impacts to the long-term restoration of the wetlands, and the project proponent for Phase 2 should be required to investigate such impacts and propose appropriate mitigation that will allow for the fulfillment of the remediation and restoration goals set forth for the Peyton Slough Remediation and

Comment Set 14, cont.

Restoration Project. As stated elsewhere in this document, there is no analysis of how impacts to the Peyton Slough Remediation and Restoration Project could be reduced or avoided through the project proponent's use of its existing pipeline right of way (or some new right of way adjacent to that existing right of way.)

14-40

Comment D-10. Page D.4-67. Section D.4.3.5. Impacts of Pipeline Operation. Impact B-3: Pipeline Maintenance And Repair Activities Could Affect Sensitive Species and Habitats.

14-41

The impact is described, *"Impacts to special status wildlife or plant species and upland vegetation or their habitats and/or to wetlands may occur due to overland travel pipeline maintenance and repair. (Potentially Significant, Class II)."*

The potential for the activities described in this section to significantly impact the Peyton Slough Remediation and Restoration Project restoration areas has not been evaluated or addressed in this Draft EIR.

Comment D-11. Page D.4-73. Section D.4.3.6. Impacts of Segment. Segment 1 (MP0-6.1) Contra Costa County and Carquinez Strait. Marine Biology.

14-42

The Draft EIR does not evaluate and address the potential for the activities described in this section to cause cumulative impacts to the Peyton Slough Remediation and Restoration Project areas.

Comment D-12. Page D.4-82. Section D.4.3.8 Cumulative Impacts. Vegetation and Wetlands.

14-43

In the first paragraph, the last two sentences state, *"Impacts to sensitive vegetation along the proposed pipeline would be temporary and mitigated by on-site restoration of the impact site. Since these types of mitigation have a high success rate, long-term impacts would be expected to result in no significant cumulative impacts."*

The Proposed Project will impact areas that are considered mitigation areas for the Peyton Slough Remediation and Restoration Project; however, the Draft EIR does not consider such cumulative impacts. The impacts to the remediation and restoration areas of the Peyton Slough Remediation and Restoration Project by the Proposed Project (or its alternatives) have not been analyzed in order to evaluate these cumulative impacts, as well as any mitigation obligations.

Comment D-13. Page D.4-83. Section D.4.3.8 Cumulative Impacts. Wildlife and Aquatic Species.

14-44

The last sentence in the second paragraph states, *"However, the temporary loss of wildlife habitat would not result in a significant cumulative impact to wildlife with the*

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implementation of mitigation measures designed to minimize effects to wildlife species and to restore affected wildlife habitats to pre-existing conditions."

14-44

There is insufficient analysis of impacts in Segment 1 of the Proposed Project to support a conclusion that there are only temporary losses to wildlife and aquatic species. The Proposed Project will impact areas that are considered mitigation areas for the Peyton Slough Remediation and Restoration Project; however, such cumulative impacts have not been identified or considered in this Draft EIR. The impacts to the remediation and restoration areas of the Peyton Slough Remediation and Restoration Project by the Proposed Project have not been analyzed in order to evaluate these cumulative impacts, as well as any mitigation obligations.

Comment D-14. Page D.6-13. Section D.6.3.6. Impacts by Segment. Segment 1 (MP0-6.1) – Contra Costa County and Carquinez Strait.

14-45

The third and fourth paragraphs state:

> *"Two potentially contaminated sites not listed in the Applicant's database are also present along the alignment, Peyton Slough and the Rhodia Inc. facility (URS, 2002b). Both sites have had known historic heavy metal contamination of the soil and have not been treated as sites with a high potential to impact the project. The presence of these contaminated sites results in a potential for contaminated soil and/or groundwater to be encountered during construction, resulting in a potentially significant (Class II) impact (Impact EC-1), mitigable to less than significant levels through implementation of Mitigation Measures EC-1b and EC-1c. If construction of the Proposed Project occurs after remediation of these sites, the record review required by Mitigation Measure EC-1b will result in these sites being reclassified as "low" potential.*
>
> *Any cleanup of environmental contamination that is accomplished during construction of the pipeline alignment would be considered a beneficial (Class IV) impact. Cleanup of contaminated sites along the pipeline route would also cause a minor adverse impact (Impact EC-4; Class III) by adding to the regional hazardous material transportation and treatment and disposal systems."*

The Peyton Slough Remediation and Restoration Project is an approved and planned remediation and restoration effort that involves an engineered cap which will be placed on Peyton Slough and the realignment of the channel to a location to the east of the existing alignment. In addition, there are two monitored subsurface residual ore bodies, which are currently capped and managed in place, in accordance with remediation conducted pursuant to RWQCB orders. [Please refer to the RDR (URS 2002) for maps identifying their locations.] The placement of a fuel pipeline through and across these engineered caps has not been addressed or evaluated for impacts, which could include exacerbation of contamination in the future restored adjacent marsh lands, a great deal

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of which are within the Peyton Slough Remediation and Restoration Project Area. Mitigation EC-1b and EC-1c do address immediate issues related to excavation in contaminated soil, but do not appear to address cleanup of contamination in either Peyton Slough or Rhodia Property or State Lands property. No evaluation of the complex transport pathways or effects related to actions involving the disturbance of engineered cap materials and placement of a pipeline through them has been conducted in this Draft EIR. **14-45**

Comment D-15. Page D.6-14. Table D.6-1. Hazardous Waste Sites Potentially Impacting Segment 1.

It does not appear that a thorough search and inclusion of sites was conducted for Segment 1. At a minimum, Rhodia Inc. and the Peyton Slough Remediation and Restoration Project should be listed as sites under RWQCB jurisdiction. **14-46**

Comment D-16. Page D.6-21. Section D.6.3.8. Cumulative Impacts.

It does not appear that cumulative impacts have been evaluated for the potential waste issues posed by the close proximity of Rhodia and the Peyton Slough Remediation and Restoration Project, or other inadvertently omitted sites under RWQCB jurisdiction. In addition, it appears that there has been no comparative impacts analysis with respect to the alternative of using the project proponent's existing pipeline right of way as a means of avoiding such impacts in this Draft EIR. **14-47**

Comment D-17. Page D.8-2. Surface Water Quality. San Francisco Bay Region.

The Carquinez Strait and Peyton Slough and relevant RWQCB legislation on surface water quality are not mentioned in this section of the Draft EIR. These are relevant given the potential impacts to surface water posed by the Proposed Project and its proximity to these water bodies. **14-48**

Comment D-18. Page D.8-16. Section Mitigation Measure for Impact HS-3: Contamination of Surface Water by Direction Drilling Fluid Seepage.

The first bullet on Page D.8-16 reads, *"In the event of a release during construction, SFPP shall assess the extent of potential damage to fisheries and carry out appropriate mitigation/compensation procedures. Impacts to consider include curtailment of access to fishing areas, contamination of fish and habitat, loss of income to commercial fishing interests and businesses. Procedures for assessing damage should include field surveys to determine extent of damage during and soon after the release, and long-term monitoring to determine long-term effects to habitat, fish, and fishing interests."* **14-49**

Segment 1 will be monitored for benthic organisms under the Peyton Slough Remediation and Restoration Project. The long-term and immediate impacts of a